CWP No. 2053 of 2007

06.12.2007 Present: Mr. Karan Singh Kanwar and Mr. Bimal Gupta, Advocates, for the petitioner.

Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Deputy Advocate General, for respondents No. 1 to 3.

Heard. The petitioner has been working as PET in Government Senior Secondary School, Majra and has been transferred to Government Middle School, Nawada u/c GSSS Shivpur. He challenged his transfer order by filing an application under Section 19 before the State Administrative Tribunal who declined to grant any relief in favour of the petitioner by passing a detailed order on 20.11.2007. Being aggrieved by the said order, the petitioner has filed the present writ petition challenging the said order.

The main ground taken by the petitioner is that his son is suffering 100% disability and on his request, the State Government had posted him at Government Senior Secondary School, Majra, where he joined his duties on 11.3.2005. However, he has been transferred by order dated 12.4.2007 within a period of about 2 years to Government Middle School, Nawada at a distance of more than 25 KMs from the present place of posting

just to accommodate respondent No. 4. The learned Tribunal has observed that the petitioner has been serving here for a period of

more than 2 years and 8 months and earlier he had served for a period of 4 years and 11 months within the radius of 25 KMs. A perusal of the impugned judgment of the learned Tribunal also shows that the majority of the postings of the petitioner had been within a distance of 5 KMs from his native village Majra, as per the details of postings placed on record by the respondents.

We have gone through the detailed order passed by the learned Tribunal vide which the application filed by the petitioner was dismissed. The employee has no inherent right to remain at a place of posting for number of years though the normal tenure as prescribed and being followed under the government instructions is three years. The petitioner has already completed a period of more than 2 years and 8 months and we could have considered to allow him remain at the same place for another period of 3/4 months to complete his normal tenure of 3 years. But since it has come up on record in the impugned order of learned Tribunal that respondent No. 4 has already joined at new place of posting, therefore, no such order of staying or permitting the petitioner to continue at his original place of posting can be passed. The learned Tribunal had considered the

facts of the case and the impugned order passed dismissing the application filed by the petitioner does not suffer from any illegality

to be interfered with. However, keeping in view the assertions made by the petitioner's counsel that the petitioner's son is suffering from 100% disability and requires the attendance of his father, his plea is that he should be considered to be posted within a period of 5 KMs from his native village so that his services are available to his son suffering from disability. This plea can only be considered by the State Government and accordingly while dismissing the present writ petition, we allow the petitioner to make a representation to the State Government within 15 days from the receipt of the order and apply to Principal Secretary(Education), Government of H.P., who shall give a hearing to the petitioner and after hearing the petitioner and considering the facts of the case, he shall pass a reasoned order. The said application shall be decided by the Principal Secretary(Education) within a period of 15 days from the receipt of the same. During the period till his representation is not disposed of, it is for the petitioner to join his new place of posting or he may apply for leave. The petition is accordingly dismissed with these observations. No order as to costs.

CMP No. 3229 of 2007:

In view of the orders passed in the main petition, this application has become infructuous.

CMP No. 3230 of 2007:

Allowed.

Copy **dasti**.

(V.K. Ahuja), J. **(Deepak Gupta), A.C.J.**

December 6, 2007
(BSS)